

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 277

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE ATTORNEY GENERAL; AMENDING SECTION 67-1406, IDAHO CODE, TO
PROVIDE THAT CERTAIN OFFICERS MAY EMPLOY ATTORNEYS OTHER THAN THOSE UN-
DER THE SUPERVISION OF THE ATTORNEY GENERAL.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-1406, Idaho Code, be, and the same is hereby
amended to read as follows:

67-1406. EMPLOYMENT OF ATTORNEYS RESTRICTED -- EXEMPTIONS. Notwith-
standing any other provision of law to the contrary, no department, agency,
office, officers, board, commission, institution or other state entity
shall be represented by or obtain its legal advice from an attorney at law
other than the attorney general except as follows:

(1) The legislative and judicial branches of government and the gover-
nor, lieutenant governor, state controller, state treasurer, secretary of
state and superintendent of public instruction may employ attorneys other
than those under the supervision of the attorney general, and such attorneys
may appear in any court. However, such entities and officers may, upon re-
quest, utilize the attorney general's legal services.

(2) Those state entities within the department of self-governing agen-
cies which are enumerated in sections 67-2601(2)(a), 67-2601(2)(b) and
67-2601(3), Idaho Code, and colleges and universities may employ private
counsel to advise them and represent them before courts of the state of
Idaho. Such entities may also obtain legal services from the attorney gen-
eral on such terms as the parties may agree.

(3) Whenever the attorney general determines that it is necessary or
appropriate in the public interest, the attorney general may authorize con-
tracts for legal services pursuant to the provisions of section 67-1409,
Idaho Code.

(4) The provisions of section 67-1401, Idaho Code, shall govern the
normal relationship between the attorney general and the state entities in
the executive branch of state government. However, if after consultation
with the attorney general, the governor determines in his sole judgment,
which shall not be subject to judicial review, that counsel assigned to rep-
resent or give legal advice to any state entity, other than the lieutenant
governor, state controller, state treasurer, secretary of state, attorney
general, and the superintendent of public instruction, cannot effectively
advocate or pursue the policies of the governor, the governor shall request
that other counsel be provided by the attorney general, and the attorney gen-
eral shall provide from within the office of the attorney general or obtain
from outside the office of the attorney general, depending upon the request
of the governor, qualified counsel acceptable to the governor to represent
such state entity.

1 (5) Any separate counsel employed pursuant to the foregoing exceptions
2 shall be compensated with funds appropriated to such state entity, unless
3 such separate counsel shall have been employed at the request or convenience
4 of the attorney general or because of a conflict in representation by the at-
5 torney general.